

Service Date: September 16, 2005

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER NorthWestern Energy's)	
Application for Approval of Electric Supply)	UTILITY DIVISION
Deferred Cost Account Balance and)	
Projected Electric Supply Cost)	DOCKET NO. D2005.5.88
)	ORDER NO. 6682a
)	

PROTECTIVE ORDER

On May 25, 2005, NorthWestern Energy (NWE) filed before the Public Service Commission (PSC) a motion for protective order to govern certain information expected to be filed in this NWE gas cost tracker proceeding. On June 7, 2005, the PSC denied NWE's motion, without prejudice, on the basis of non-compliance with PSC protective order rules, ARM 38.2.5001 through 38.2.5030, primarily ARM 38.2.5007(3) through (4)(a)(iv). *See, July 10, 2005, Notice of Commission.* On August 29, 2005, NWE filed a Renewed Motion for Protective Order (Renewed Motion). NWE's Renewed Motion is proper in form and includes information as required by and in compliance with ARM 38.2.5007(3) through (4)(a)(iv).

In its Renewed Motion NWE requests protection of information relating to:

- A. Certain detailed monthly costs associated with purchases of electric supply and the monthly invoices supporting these costs;
- B. Certain detailed monthly volumes associated with purchases of electric supply and supporting invoices;
- C. Location of delivery of specific purchases of electricity and the supporting monthly invoices;
- D. Identity of parties responding to a solicitation by NWE for Requests for Proposals (RFP) for provision of electricity or the parties in negotiation with NWE for provision of electricity;

- E. Prices associated with RFP responses or negotiation proposals;
- F. Volumes associated with RFP responses or negotiation proposals;
- G. Location of delivery of the electricity associated with RFP responses or negotiation proposals; and
- H. NWE's or an RFP administrator's evaluation of the parties from whom NWE purchases or may purchase electricity, the associated costs and volumes and the location of delivery of the electricity.

NWE argues that the identified information is trade secret in accordance with § 30-14-402, MCA, and that it is confidential business information entitled to protection. In its Renewed Motion NWE also requests special terms and conditions, proposing a "market participant" / "market participant representative" concept to more strictly control access to confidential information.

The PSC determines NWE has shown good and sufficient cause in fact and law that the information described in A, B and C, as more fully described below, for which protection is requested is entitled to protection from uncontrolled public disclosure pursuant to § 69-3-105, MCA, as trade secret as defined at § 30-14-402, MCA. The PSC grants NWE's request for a protective order and hereby orders that information submitted in accordance with this order be treated as "confidential information" under the terms of this order and PSC protective order rules, ARM 38.2.5001 through 38.2.5030. Aggregate information with respect to monthly costs or monthly volumes associated with purchase of electric supply are not trade secret. Only the detailed information that reveals the weekly, daily or hourly costs or volumes associated with purchases of electric supply or reveals the specific parties associated with specific weekly, daily or hourly purchases and the location of delivery of specific purchases and the supporting monthly invoices are trade secrets.

The PSC determines that the information described in D, E, F, G and H (RFP Information) deal with information that has neither been submitted nor requested in this docket. At this time there is no need to make an independent determination whether the RFP Information is entitled to protection. The PSC defers consideration of that portion of the Renewed Motion that deals with RFP Information until such time, if any, that a party or the PSC requests any of the RFP Information.

The PSC denies NWE's request for special terms and conditions restricting the access of market participants to protected information. No market participant has intervened in this docket. Any question regarding market participant access in this docket is moot. The PSC determines the standard protections for trade secret information are sufficient protections in this case.

Done and dated this 13th day of September, 2005, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGSON, Chairman

BRAD MOLNAR, Vice-Chairman

DOUG MOOD, Commissioner

ROBERT H. RANEY, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of the granting of a protective order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008. Reconsideration of a denial of a protective order is available in accordance with ARM 38.2.4806.

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)

ARM 38.2.5012

Docket No., D2005.5.88 Order No. 6682a
Order Action Date: September 13, 2005

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party Represented